

NEBRASKA DEPARTMENT  
OF INSURANCE

FILED

## CONSENT ORDER

CAUSE NO. A-1489

CARL L. CLARK,

RESPONDENT.

## JURISDICTION

## STIPULATIONS OF FACT

2. The petition alleges that Respondent violated Neb. Rev. Stat. §44-4059(1)(j), §44-4059(1)(h), and §44-4059(1)(e) as a result of the following conduct:

- a. Neb. Rev. Stat. §44-4059(1)(j) and §44-4059(1)(h):

On or about December 27, 2001, Respondent came to the home of Leona L. and Merle Ebers, who were covered under a cancer insurance policy #001085764 with Capital American. After convincing the Ebers to convert their Capital American cancer policy to a new cancer insurance policy with Conseco Health Insurance Company, an Application to Convert Existing Coverage was solicited from the Ebers by the Respondent and was signed by the applicant, Leona L. Ebers, for submission to Conseco Health. Unbeknownst to the Ebers, but presumably due to the fact that both of them had been diagnosed with cancer prior to this date when the Respondent "showed up" at their home, Respondent subsequently filled out Conversion Exclusion Riders on both Merle and Leona L. Ebers, respectively, which he then attached to the Ebers' Application to Convert Existing Coverage and submitted to Conseco Health. The signature of applicant on each of those Conversion Exclusion Riders, purported to be Leona L. Ebers, are not hers, nor did she authorize the Respondent to sign her name on either of the Conversion Exclusion Riders that Respondent submitted to Conseco Health. The "applicant" signatures on each of the Conversion Exclusion Riders are forgeries. Upon receipt of the Application to Convert Existing Coverage along with the Conversion Exclusion Riders on Merle and Leona L. Ebers, respectively, Conseco Health issued their cancer insurance policy # 302667619 with an effective date of January 28, 2002 to the Ebers.

- b. Neb. Rev. Stat. §44-4059(1)(e):

- i. During the course of the Respondent's visit to the Ebers' residence on the evening of December 27, 2001 to convince them to convert their Capital American cancer insurance policy to a new cancer insurance policy with Conseco Health, the Ebers claim that the Respondent represented to them that if they agreed to convert to the new Conseco cancer policy, they would be covered for any cancer treatment under the new policy's benefits 30 days after becoming insured under that new policy. They further contend the Respondent stated that the new policy's benefits would apply to cancer treatment for any cancer condition they had, whether pre-existing or a new condition.
- ii. Even if the Department of Insurance accepted Respondent's contention to the Consumer Affairs Division that he explained to Merle and Leona L. Ebers that since Merle had been diagnosed with a certain cancer condition, any claims for loss would be limited to benefits under the old cancer policy until he had been free of cancer for 10 years, at which time any claim for loss would be paid under the new cancer policy, Conseco Health has stated that Respondent's statement is incorrect. Conseco Health has advised that the Conversion Exclusion Rider for Merle Ebers states that his benefits for cancer under the converted (Conseco) cancer insurance will be limited to the level of benefits provided under the existing (Capital American) cancer insurance. It had no provision that if Merle was cancer free for 10 years, any claims for loss would be paid under the new (Conseco) cancer policy. This is the same Conversion Exclusion Rider that Respondent subsequently completed and attached to the Application

to Convert Existing Coverage he had solicited from the Ebers on December 27, 2001 and submitted to Conseco Health.

3. Respondent was informed of his right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving his right to a public hearing, Respondent also waives his right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent admits the allegations contained in the Petition and restated in Paragraph #2 above.

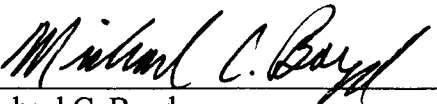
#### CONCLUSIONS OF LAW

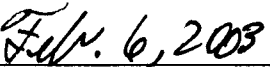
Respondent's conduct as alleged above constitutes violations of Neb. Rev. Stat. §44-4059(1)(j), §44-4059(1)(h), and §44-4059(1)(e).

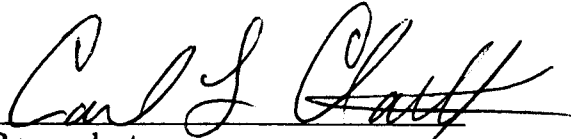
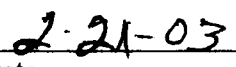
#### CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, Carl L. Clark, that the Respondent shall pay an administrative fine of \$1,200 within thirty (30) days from the date the Director placed his signature hereon. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party executed this document by subscribing their signatures below.

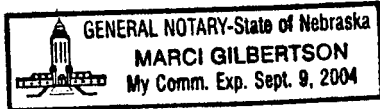
  
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Michael C. Boyd  
Representative for Nebraska  
941 "O" Street, Ste. 400  
Lincoln, NE 68508  
(402) 471-2201

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Respondent  
  
\_\_\_\_\_  
Date

State of Nebraska )  
County of Buffalo ) ss.

On this 21<sup>st</sup> day of February, 2003, Carl L. Clark personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.



M. Gilbertson  
Notary Public

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Carl L. Clark, Cause No. A-1489.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

L. Tim Wagner  
L. TIM WAGNER  
Director of Insurance

2/28/03  
Date

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Consent Order was served upon Respondent by mailing a copy to Respondent at Conesco Health, 1202 3<sup>rd</sup> Avenue, Kearney, NE 68845 by U. S. Mail, on this 28<sup>th</sup> day of February, 2003.

Stacy M. Bulfinch